



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

March 31, 1994

Mr. Curtis E. Hawk  
City Manager  
City of Southlake  
667 North Carroll Ave.  
Southlake, Texas 76092

OR94-152

Dear Mr. Hawk:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act (the "act"), chapter 552 of the Government Code. Your request was assigned ID# 22726.

The City of Southlake (the "city") has received an open records request for information pertaining to the investigative files of two cases involving aggravated sexual assault of a child. You contend that section 552.101 of the Government Code excepts some of the requested information from required public disclosure.

Section 552.101 excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Under section 552.101, information may be withheld on the basis of common-law privacy if it is highly intimate or embarrassing such that its release would be highly objectionable to a person of ordinary sensibilities, and there is no legitimate public interest in its disclosure. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977); Open Records Decision Nos. 579 at 2, 562 at 9, 561 at 5, 554 at 3 (1990). The detailed description and identity of a victim of sexual assault is ordinarily protected by common-law privacy. Open Records Decision Nos. 393 (1983); 339 (1982). The investigative reports at issue here consist of detailed statements of the investigating officers, statements of the complainants' parents, and medical information regarding one of the victims. Detailed descriptions of the alleged sexual assaults and information that identifies the victims must be withheld under common-law privacy. We have marked the types of information contained in the investigative reports that you must withhold to protect the victims' common-law privacy interests.

Section 552.101 also prohibits disclosure of information deemed confidential by statutory law. Some of the requested information in the police report is specifically exempted from disclosure by section 5.08(b) of article 4495b, V.T.C.S. Section 5.08(b) provides:

Records of the identity, diagnosis, evaluation, or treatment of a patient by a physician that are created or maintained by a physician are confidential and privileged and may not be disclosed except as provided in this section.

We have marked the medical records that must be withheld from public disclosure under section 552.101 in conjunction with section 5.08(b) of article 4495b, V.T.C.S. Except as noted above, you must release the remainder of the requested records.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay  
Assistant Attorney General  
Open Government Section

LRD/JCH/rho

Ref.: ID# 22726

Enclosures: Marked documents

cc: Ms. Opal C. Johnson  
319 W. Texas  
Grapevine, Texas 76051  
(w/o enclosures)